



STATE APPEAL BOARD MEETING – MAY 2015

Meeting. The [State Appeal Board](#) met May 4, 2015, in Des Moines. The Board received a legal update from Solicitor General Jeff Thompson, [Office of the Attorney General](#). He indicated there were multiple letters from one citizen regarding local budgets. He recommended that the Office of the Attorney General respond to all the letters on behalf of the Board. The State Appeal Board approved this recommendation.

School District. The State Appeal Board reviewed the action of the School Budget Review Committee ([SBRC](#)) in denying the request from the [Laurens-Marathon Community School District](#) to transfer the balance in its Debt Service Fund to its General Fund. The SBRC directed the school district to hold an election in compliance with Iowa Code sections [298A.10](#) and [278.1\(1\)\(e\)](#) if it wants to make this transfer. The State Appeal Board had tabled this item in February 2015 and referred it to the SBRC. The State Appeal Board decided to respond to the school district, referencing the decision of the SBRC to close the matter.

County Confinement. The State Appeal Board denied approximately \$37,000 in general claims submitted by the Department of Corrections ([DOC](#)) Central Office. The claims are submitted to the DOC by counties for holding alleged violators in county jails until their revocation hearings. The State Appeal Board cited Iowa Code sections [904.513](#), [904.908](#), and [906.17](#) in denying the claims. These Iowa Code sections require the counties to submit requests for reimbursement to the DOC within 15 days of the end of the calendar quarter. These claims were not submitted on a timely basis.

Board Action. The Board took the following actions:

- Approved approximately \$252,000 in general claims filed under Iowa Code chapter [25](#) and denied three claims that totaled approximately \$11,000. Approximately 50.7% of the total amount approved was due to an outdated invoice from the Department of Human Services ([DHS](#)) for Oracle software maintenance. There is a state and federal cost share for this invoice.
- Approved two tort claims filed under Iowa Code chapter [669](#) for approximately \$25,000. The Board denied tort claims that totaled approximately \$17.2 million.

Walsh Settlement. The State Appeal Board approved a settlement between the [Walsh Construction Company](#) and the Department of Administrative Services ([DAS](#)) and the DOC related to the construction of a new maximum-security prison at Fort Madison. The company served as the general contractor on the construction project; its initial contract award was approximately \$116.9 million in 2010. The contract increased to approximately \$123.5 million through mutual agreement and change orders. Walsh Construction Company submitted a Request for Equitable Adjustment (REA) to the contract of approximately \$18.2 million. A professional mediator was hired; the settlement for \$7.0 million is to be paid from the General Fund under Iowa Code chapter [25](#). This amount is in addition to the \$123.5 million contract.

Retainage. The settlement agreement established April 28, 2015, as the final completion date for Walsh Construction Company's work under the contract. This date triggers notice requirements under Iowa Code chapter [573](#) for payment of claims to subcontractors. There is approximately \$6.2 million held as retainage to pay claims due at the end of the construction project. The retainage amount is included in the \$123.5 million contract awarded to Walsh Construction Company. However, the amount actually approved for retainage will be submitted to the State Appeal Board for payment as a general claim under Iowa Code chapter [25](#). No other appropriations are available.

Legal Issues. Solicitor General Jeff Thompson stated, "The settlement approved by the State Appeal Board fully resolves any dispute or claim between Walsh and the State arising from the Iowa State

Penitentiary construction project. There was no dispute that there had been substantial delays on the project and additional work performed for which Walsh (and its subcontractors) had not been paid. We believe the settlement is a fair and reasonable resolution to this dispute, and is in the best interests of the State. The settlement does not resolve any dispute or claim between the State and any other party related to the construction project. The State is currently considering its options for recovery of some unanticipated costs associated with the project. Our office cannot comment on any particular option at this time."

Next Meeting. The next regular meeting of the State Appeal Board is scheduled for June 1, 2015, in Des Moines.

STAFF CONTACTS: Beth Lenstra (515-281-6301) beth.lenstra@legis.iowa.gov
Christin Mechler (515-281-6561) christin.mechler@legis.iowa.gov